CMPMO No.239 of 2007.

25.10.2007. Present: Mr. Lalit K. Sharma, Advocate, for the petitioner.

Mr. P.M. Negi, Dy. Advocate General, for respondents No.1 and 2.

Mr. Ajay Kumar, Advocate, for respondents No.3 and 4.

Learned counsel for the parties, more particularly Mr. Ajay Kumar, learned counsel appearing for respondents No.3 and 4 and Mr. P.M.Negi, learned Deputy Advocate General appearing for respondents No.1 and 2 very fairly and frankly concede that the impugned order dated 1st October, 2007 passed by the Assistant Collector Ist Grade, Shimla is wholly untenable in the eyes of law because there is no restrain or encumbrance in existence or in operation as on date in view of the fact that the suit in which an interim injunction had been granted by the High Court has since been already disposed of as compromised between the plaintiffs and the defendants in the said suit. It is undoubtedly true that originally the High Court had issued an ad-interim injunction but as the subsequent developments show the suit was first transferred from the High Court to the District Judge and thereafter from the District Judge to the Court of Civil Judge (Senior Division). At the relevant time, the Court of Civil Judge (Senior Division) was inseisin of the suit being a Court of competent jurisdiction. It is that Court which ultimately disposed of

the suit based on the compromise arrived at between the parties. Once the suit stood disposed of finally any earlier injunction granted in the suit by any Court, including this Court stood vacated automatically.

The aforesaid, therefore, shows that as on date neither there is any injunction nor any restraint order nor any encumbrance qua the property in question.

The impugned order accordingly is set aside. The Assistant Collector Ist Grade (Rural), Shimla is directed to consider afresh the application of the petitioner and in the light of the aforesaid observations pass appropriate orders thereupon in accordance with law.

25th October, 2007. (V.K. Gupta), C.J.
(tr)